IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY SIXTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

**THE HON'BLE DR JUSTICE G.YETHIRAJULU**

**WRIT PETITION NO: 15174 of 2004**

Between:

1 K.S.S.N.Raju, s/o K.Subba Raju,
BSNL, Tirupati, Chittoor District.
2 G.Vishnu Vardhan Raju, s/o G.Naga Raju,
Civil, O/o.S.D.E.Civil, BSNL, Tirupati, Chittoor District.
3 J.Rama Rao, S/o Guruswamy,
O/o.S.D.E.Civil, BSNL, Rajahmundry.

**..... PETITIONERS**

**AND**

1 The Senior Deputy Director General, (B.W)

O/o The Chairman and Managing Director, BSNL, New Delhi.
2 The Chief Engineer, Civil, BSNL, Palace Heights, II Floor,

Abids, Hyderabad-1.
3 The Chief General Manager, Telecom, A.P.Circle, Hyderabad.
4 The Chairman & Managing Director, BSNL, New Delhi.
5 Union of India, rep., by its Secretary to the Ministry of Personnel,

Public Grievances & Pensions (Dept. of Personnel & Training)

New Delhi.

**.....RESPONDENTS**

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ order or direction more in the nature of mandamus declaring Lr.No.5(1)TR/CE(C)/BSNL/HYD/1026, 1027 and 1028 dated 6-3-2003 issued by the Chief Engineer (C), BSNL, Civil Zone, A.P., Hyderabad as illegal, arbitrary, discriminatory and violative of Articles 14, 16 and 21 of the Constitution and consequently hold that the petitioners are entitled for grant of first financial up-gradation under A.C.P. Scheme in the scale of Rs.6500-10500 on completion of 12

years of regular service as Junior Engineer (Civil) or from 9-8-1999 which is later and also be pleased to further hold that denial of the said benefit of financial up-gradation to the petitioners while granting it under similar circumstances to the Stenographers, Inspectors of Post Offices etc., is quite discriminatory.

**Counsel for the Petitioner: MR.K.VENKATESWARA RAO**

**Counsel for the Respondents: SMT. P.SHARADHA (SC FOR BSNL)**

**The Court at the stage of admission made the following:**

**HONOURABLE DR. JUSTICE G.YETHIRAJULU**

WRIT PETITION NO.15174 OF 2004

**ORDER:**

The petitioners contended that they were appointed as Junior Engineers (Civil) after their passing of All India Departmental Competitive Examination held in 1987 under 16 2/3 % departmental quota and were selected on merit. They were appointed as Junior Engineers with effect from 11-06-1987,15-06-1987 and 27-05-1988 respectively and since then they are working in the said posts. The petitioners are further contending that as per Article 3.1 of the Official Memorandum issued by the Government of India on 09-08-1999, an Assured Career Progression (ACP) Scheme has been introduced by the Government of India making the employees, who have completed 12 years of regular service period and remained without any promotion, are entitled for two financial up- gradations. The employees working in Group 'A', 'B', 'C' and 'D' Categories who have no promotional avenues shall also qualify for similar benefit. The petitioners are contending that they belong to 'C' category, and as per the said Official Memorandum, they are entitled for the benefit of 'ACP' Scheme. The petitioners further contended that the Government of India, through an Official Memorandum dated 10-02-2000 under Serial No.8 of the annexure, clarified that those who are inducted into service through a limited departmental competitive examination be treated as direct recruits for the purpose of extending the benefit under ACP Scheme.

**2.** The grievance of the petitioner is that despite the benefit extended to the employees who have completed 12 years of service in the same cadre through Official Memorandum dated 09-08-1999 and clarification through an Official Memorandum dated 10-02-2000, the second respondent passed the

impugned orders on 06-03-2003 informing the petitioners that as per para 3 of letter No.2-1/99-CSE dated 03-05-2001 and clarification given under para 8 of letter No.35034/1/9A-EE (HQ) Volume II dated 10-02-2000, the petitioners are not eligible for ACP Scheme, since they have been appointed as Junior Engineers (Civil) through departmental competitive examination under 16 2/3% quota. Though the petitioners were appointed as draughts men Grade II in the year 1979, they appeared for the All India Departmental Competitive Examination for appointment to the cadre of Junior Engineers (Civil) during the year 1987 under the quota reserved for the departmental vacancies at 16 2/3% and got selected for the said posts on merit and later appointed as Junior Engineers (Civil).

**3.** After careful reading of Clause (8) of the Official Memorandum, dated 10-02-2000, it is indicating that those who were selected through a departmental competitive examination have to be treated as direct recruits. The petitioners are contending that from the date of their appointment as Junior Engineers (Civil) they have completed 12 years of service in that category without adding their earlier service as draughts men. So long as the official memorandum dated 09-08-1999 is in force, the employees those who have completed 12 years of service in the same post after direct recruitment are entitled for the benefit of 'ACP Scheme'.

**4.** In the light of the circumstances explained by the petitioners, I am convinced that there is sufficient force in the contention of the petitioners that on completion of 12 years service in the cadre of Junior Engineers (Civil), they are entitled for the benefit of 'ACP Scheme'. The petitioners further contended that they continue to get the same scale of pay as draughts men Grade II as well as Junior Engineers (Civil) till this date. Therefore, even if the post of Junior Engineer (Civil) is treated as a promotion post, they are entitled for the benefit of 'ACP Scheme'.

**5.** In the light of the above circumstances, the impugned orders of the second respondent dated 06-03-2003 are liable to be set aside. The second respondent is hereby directed to consider the cases of the petitioners for extending the benefit of 'ACP Scheme' on satisfying that they have completed 12 years of service in the same cadre after their appointment through direct

recruitment and pass fresh appropriate orders by keeping in view the Official Memorandums mentioned above, within two months from the date of receipt of a copy of this order.

**6.** The Writ Petition is accordingly disposed of. No order as to costs.

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Dr. G.YETHIRAJULU, J

26th August, 2004

SKM

**Note:**

Furnish C.C. within one week.

B/o.

skm

TO

1 The Senior Deputy Director General, (B.W)

O/o The Chairman and Managing Director, BSNL, New Delhi.
2 The Chief Engineer, Civil, BSNL, Palace Heights, II Floor,

Abids, Hyderabad-1.
3 The Chief General Manager, Telecom, A.P.Circle, Hyderabad.
4 The Chairman & Managing Director, BSNL, New Delhi.
5 The Secretary to the Ministry of Personnel, Union of India,

Public Grievances & Pensions (Dept. of Personnel & Training)

New Delhi.

6 Two C.D. Copies.